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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,360	07/21/2005	Frank-Uwe Sommer	37934-211620	8218
26694	7590	02/18/2009		
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER KELLER, MICHAEL J	
			ART UNIT 3634	PAPER NUMBER
			MAIL DATE 02/18/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,360

Applicant(s)

SOMMER ET AL.

Examiner

Michael J. Keller

Art Unit

3634

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. In the Request for Continued Examination dated 11/26/2008, Applicant has amended claims 1-4 and 9-13, and canceled claim 7.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "bayonet connector" recited in claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-6, 9-18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 recites the limitation "the first traction mechanism" in line 16. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 1 recites the limitation "a first traction mechanism tensioning device" in line 12. There are numerous recitations in the dependent claims which appear to refer back to this device, but either change certain words such as "mechanism" and "tensioning" to "means" and "tightening", or fail to distinguish between the first traction mechanism tensioning device and the second traction mechanism tensioning device. Appropriate correction of all such errors is required.
7. Claim 3 recites "wherein the current feed further comprises said guide rail" in lines 2-3, and claim 14 recites "wherein the guide rail forms a component of the current feed". Claim 1 previously recited "a guide rail" and "a current feed" as two separate elements, in lines 2 and 6 respectively. Where a claim directed to a device can be read to include the same element twice, the claim may be indefinite. Ex parte Kristensen, 10 USPQ2d 1701 (Bd. Pat. App. & Inter. 1989). Claims 3 and 14 can be read to include both a guide rail that is separate from the current feed and a guide rail that is a part of the current feed.

Claim Rejections - 35 USC § 103

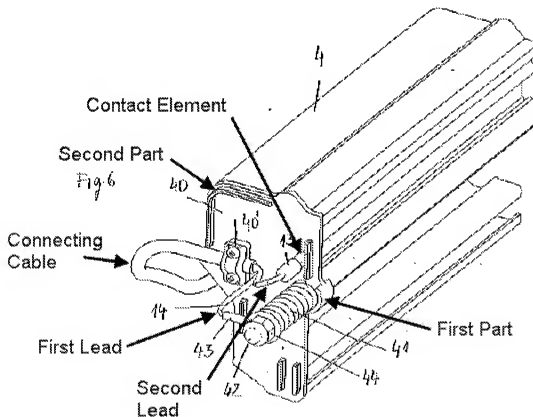
8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
9. **As best understood, claims 1-6, 9-12, 14-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser et al. (CH 678964) in view of Sommer et al. (DE 198 08 696).**

Regarding **claim 1**, Kaiser discloses a drive device for a door comprising: a drive device for a door comprising: a guide rail (10) extending in a movement direction of the door; a carriage (18) to move along said guide device and comprising an electric motor (20) to cause movement of a door leaf (28), and a current feed connecting the electric motor with a current source, a traction mechanism (12), a first insert body (16), and a first traction mechanism tensioning device (13) with a positive interlocking part.

Examiner notes that the phrase beginning with "adapted to..." in claim 1 line 13 is an intended use recitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. It is well known that nuts and bolts such as the threaded bolt 13 of Kaiser are capable of being operated by hand, despite the fact that tools make the process easier.

Kaiser does not disclose that the traction mechanism is a part of the current feed and that current is delivered from the current source to the traction mechanism.

Sommer discloses a drive device for a door comprising: a guide rail (4,5) extending in a movement direction of the door, the guide rail having opposed first and second ends; a carriage (6) to move along said guide device and comprising an electric motor (21) to cause movement of a door leaf (1), and further comprising a current feed connecting the electric motor with a current source, the current of which is supplied at one end of the guide device (translation page 2 paragraph 1 lines 8-11); wherein said current feed comprises a first insert body (40) to be plugged into an end of the guide device and a connecting cable (see figure below) supplying current to a traction mechanism.



It would have been obvious to one of ordinary skill in the art at the time of the invention, to provide the drive device of Kaiser et al. with the current feed of Sommer et al. in order to eliminate the need for components 45 and 46 of Kaiser by feeding current through the traction means, thereby reducing the number of parts and manufacturing costs.

Regarding **claim 2**, Kaiser discloses a second insert body (16) having a form corresponding to that of said first insert body.

Regarding **claim 3**, Sommer discloses wherein the current feed comprises said guide rail wherein the traction mechanism (35) is connected at one end of said guide rail with a connecting cable using a traction means tightening device (41), and wherein the first insert body further comprises a contact body to contact said rail.

Regarding **claim 4**, Sommer discloses wherein the first insert body comprises a first part to carry the traction means tightening device, and a second part to provide an encircling abutment for an end of said rail.

Regarding **claim 5**, Sommer discloses wherein the first part and the second part are integrally connected together.

Regarding **claim 6**, Kaiser discloses wherein the insert body has bores (16a) to be used for fastening said rail.

Regarding **claims 9 and 10**, Kaiser discloses a second insert body (16) having a second traction mechanism tensioning device (15) with a positive interlocking part to lock into place the traction mechanism; wherein the traction mechanism is tensioned

between the traction mechanism tensioning devices of the first and second insert bodies at the ends of the guide device.

Regarding **claim 11**, Kaiser and Sommer disclose wherein the traction mechanism comprises a chain.

Regarding **claim 12**, Examiner takes Official Notice that the use of bayonet connectors was known in the art at the time of the invention. One of ordinary skill in the art could have substituted a bayonet connector for the positive interlocking part of Kaiser and Sommer. Such a combination would have yielded predictable results to one of ordinary skill in the art at the time the invention was made, since the elements perform as expected and thus the results would be expected.

Regarding **claim 14**, Kaiser and Sommer disclose wherein the guide rail forms a component of the current feed.

Regarding **claim 15**, Sommer discloses wherein the first insert body comprises: a first part to carry the traction mechanism tensioning device; and a second part to form an end stop at an end of the guide rail, the second part having an opening to permit accessing an adjustment device (44) of the traction mechanism tensioning device (see figure above).

Regarding **claim 16**, Sommer discloses wherein said adjustment device enables the positive interlocking part of the traction mechanism tensioning device to be adjusted in a longitudinal direction of the guide rail (translation page 2 paragraph 7).

Regarding **claim 17**, Sommer discloses wherein the first insert body further comprises: a connecting cable; and one or more contact elements to make contact with the guide rail (see figure above).

Regarding **claim 18**, Sommer discloses wherein the traction mechanism tensioning device and the traction mechanism are connected to a first lead of the connecting cable (see figure above).

Regarding **claim 20**, Sommer discloses wherein at least one said contact element is connected to a second lead of the connecting cable (see figure above).

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser et al. (CH 678964) in view of Sommer et al. (DE 198 08 696) as set forth above, and further in view of Blodgett (U.S. Patent 1,981,026).

Kaiser and Sommer disclose a driving device as set forth above, but do not disclose that the positive interlocking part of at least one of the traction mechanism tensioning devices comprises a hook. Blodgett discloses a similar driving device wherein a chain is attached at both ends to a hook (page 1 lines 79-84). All the claimed elements were known in the prior art as evidenced above, and one of ordinary skill in the art could have combined the elements as claimed, or substituted one known element for another, using known methods with no change in their respective functions. Such a combination would have yielded predictable results to one of ordinary skill in the art at the time the invention was made, since the elements perform as expected and thus the results would be expected.

Response to Arguments

11. Applicant's arguments with respect to the rejection of claims 1, 7 and 11 as being anticipated by Sommer have been fully considered and are persuasive. The rejection has been withdrawn.
12. Applicant's arguments with respect to the rejection of claims 1-7, 9-11, 14-18 and 20 as being unpatentable over Kaiser in view of Sommer have been fully considered but they are not persuasive. As noted in the rejection above, nuts and bolts such as the threaded bolt 13 of Kaiser are capable of being operated by hand, despite the fact that tools make the process easier.
13. Applicant's arguments with respect to the rejection of claim 13 as being unpatentable over Sommer in view of Blodgett have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Keller whose telephone number is 571-270-5219. The examiner can normally be reached on Monday - Friday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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